
SENATE BILL No. 131

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-5-6.

Synopsis: Appointment of town clerk-treasurer. Allows a town to change the office of clerk-treasurer from an elected office to a position appointed by a majority of the members of the town legislative body if: (1) the town legislative body adopts a resolution to put a public question on the ballot; and (2) a majority of the voters of the town vote to change the office to an appointed position. Provides that an appointed clerk-treasurer is an employee of the town legislative body and serves at the pleasure of the town legislative body. Provides that changing the office to an appointed office may not reduce the term of an incumbent elected clerk-treasurer. Allows a town to change the office of clerk-treasurer from an appointed position to an elected office if: (1) the town legislative body adopts a resolution to put a public question on the ballot; and (2) a majority of the voters of the town vote to change the position to an elected office. Requires that an appointed clerk-treasurer must be a resident of the town.

Effective: July 1, 2010.

Holdman

January 5, 2010, read first time and referred to Committee on Local Government.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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SENATE BILL No. 131

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-5-6-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 2. **(a)** The clerk-treasurer elected
3 under this chapter is both the town clerk and the town fiscal officer.
4 **(b) A clerk-treasurer appointed under this chapter shall**
5 **perform all the duties and responsibilities of an elected**
6 **clerk-treasurer.**
7 SECTION 2. IC 35-5-6-2.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2010]: Sec. 2.5. **(a) An appointed clerk-treasurer has the**
10 **immunity accorded an elected clerk-treasurer under section 6(b)**
11 **of this chapter.**
12 **(b) An appointed clerk-treasurer shall execute a bond for the**
13 **faithful performance of the clerk-treasurer's duties in the manner**
14 **prescribed by IC 5-4-1.**
15 SECTION 3. IC 36-5-6-3 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** The clerk-treasurer must
17 reside within the town as provided in Article 6, Section 6 of the



1 Constitution of the State of Indiana. The clerk-treasurer forfeits office
2 if the clerk-treasurer ceases to be a resident of the town.

3 **(b) An appointed clerk-treasurer must reside within the town.**
4 **The clerk-treasurer forfeits office if the clerk-treasurer ceases to**
5 **be a resident of the town.**

6 ~~(b)~~ (c) Except as provided in subsection ~~(c)~~; or (d), (e), (f), or (g),
7 the term of office of the clerk-treasurer is four (4) years, beginning at
8 noon January 1 after election and continuing until a successor is elected
9 and qualified.

10 ~~(c)~~ (d) The term of office of a clerk-treasurer elected under
11 IC 36-5-1-10.1 following the incorporation of the town:

12 (1) begins at noon November 30 following the election; and

13 (2) continues until noon January 1 following the next municipal
14 election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the
15 clerk-treasurer's successor is elected and qualified.

16 ~~(d)~~ (e) The term of office of a clerk-treasurer subject to an ordinance
17 described by IC 3-10-6-2.6 is:

18 (1) one (1) year if the clerk-treasurer is elected at the next
19 municipal election not conducted in a general election year; and

20 (2) four (4) years for the successors of the clerk-treasurer
21 described in subdivision (1);

22 beginning at noon January 1 after the clerk-treasurer's election and
23 continuing until the clerk-treasurer's successor is elected and qualified.

24 ~~(e)~~ (f) The term of office of a clerk-treasurer subject to an ordinance
25 described by IC 3-10-7-2.7 is:

26 (1) three (3) years if the clerk-treasurer is elected at the next
27 municipal election not conducted in a general election year; and

28 (2) four (4) years for the successors of the clerk-treasurer
29 described in subdivision (1);

30 beginning noon January 1 after the clerk-treasurer's election and
31 continuing until the clerk-treasurer's successor is elected and qualified.

32 **(g) An appointed clerk-treasurer:**

33 **(1) is an employee of the town legislative body;**

34 **(2) is not an officer and does not have a term of office;**

35 **(3) may be removed from office by the town legislative body**
36 **with or without cause and serves at the pleasure of the town**
37 **legislative body; and**

38 **(4) serves until the clerk-treasurer dies, resigns, or is removed**
39 **from office.**

40 **The town legislative body shall appoint another individual as town**
41 **clerk-treasurer if the town clerk-treasurer dies, resigns, or is**
42 **removed from office.**

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SECTION 4. IC 36-5-6-4 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2010]: Sec. 4. The clerk-treasurer shall be:

- (1) elected under IC 3-10-6 or IC 3-10-7 by the voters of the whole town; or
- (2) appointed by a majority of the members of the town legislative body, if the town complies with section 10 of this chapter.

SECTION 5. IC 36-5-6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A town may change the clerk-treasurer from an elected officer to an appointed position that shall be filled by appointment of the town legislative body.

(b) A town must comply with the following to make the change under subsection (a):

(1) The town legislative body must adopt a resolution submitting to the town's voters the question of whether the clerk-treasurer of the town shall be an appointed position that shall be filled by appointment of the town legislative body.

(2) A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the clerk-treasurer of the town shall be a position appointed by the town legislative body. However, the election on the question may not occur in the same election year that a town clerk-treasurer is elected. If the election is to be a special election, the date must be:

(A) not less than thirty (30); and

(B) not more than sixty (60);

days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question must be: "Shall the clerk-treasurer of (insert name of town) be a position that is appointed by the town

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legislative body, instead of elected by the voters?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the clerk-treasurer of the town shall, beginning the January 1 after the incumbent clerk-treasurer's term expires, be an appointed position that shall be filled by appointment of the town legislative body. If a majority of the voters voting on the question vote "no", the clerk-treasurer of the town remains an elected office.

(c) A vote on a public question that approves changing the clerk-treasurer to an appointed position may not reduce the term of an incumbent elected clerk-treasurer.

SECTION 6. IC 36-5-6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. A town may change the office of clerk-treasurer from an appointed position to an elected office by complying with the following:

(1) The town legislative body must adopt a resolution submitting to the town's voters the question of whether the clerk-treasurer of the town shall be an elected office. The resolution must also fix a date for the election of the clerk-treasurer in the event a majority of the voters approve the public question.

(2) A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the clerk-treasurer of the town shall be an elected office. If the election is to be a special election, the date must be:

(A) at least thirty (30); and

(B) not more than sixty (60);

days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question must be: "Shall the clerk-treasurer of (insert

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1 name of town) be an office that is elected by the voters of the
2 town, instead of a position appointed by the town legislative
3 body?".
4 (6) If a majority of the voters voting on the question described
5 in subdivision (1) vote "yes", the clerk-treasurer of the town
6 becomes an elected office, beginning January 1 after a
7 clerk-treasurer is elected and qualified. If a majority of the
8 voters voting on the question vote "no", the clerk-treasurer of
9 the town remains an appointed position.

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